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EXAMINER

ZURITA, JAMES H

ART UNIT

PAPER NUMBER

3625

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/601,619	Applicant(s) BREEN ET AL.	
	Examiner JAMES ZURITA	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/07/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12,27-38,53-64,79 and 80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12,27-38,53-64,79 and 80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History

On 23 June 2003, applicant filed the instant application with claims 1-78.

On 15 April 2004, the application was published as PG-PUB 20040073498 A1.

On 8 June 2006, the Examiner issued an Election/Restriction Requirement.

On 10 July 2006, in response, Applicant cancelled claims 13-26, 39-52 and 65-78 and added claims 79-80.

On 13 September 2006, in a first action on the merits, the Examiner rejected the claims under 35 USC 102 and 103.

On 30 November 2006, applicant amended claims 12, 38, 56 and 64.

On 19 March 2007, the Examiner issued a requirement for information under 37 CFR 1.105.

On 7 May 2007, applicant replied to the requirement under 37 USC 1.105.

The present responds to communications of 11/30/2006 and 05/07/2007.

Requirement for Information under 37 USC 1.105

Applicant's reply of 7 May 2007 is accepted as a complete reply for the requirement for the items.

Response to Amendment of 11/30/2006

On 30 November 2006, Applicant amended claims 12, 38, 56 and 64.

Claims 1-12, 27-38, 53-64 and 79-80 are pending and will be examined.

Response to Arguments

Claim objections are withdrawn in view of amendment.

The listed support for claims 1-12 is inaccurate. Some notes follow; please review for similar discrepancies:

Claim 2 appears to have support in step 250, not in step 255.

Claim 6 appears to have support in step 320, not in step 200.

Claim 7, support for shipping "...to a buyer location." appears to be supported in col. 2, lines 17-29, not 220.

Claim 10, support for "...restrictions...where...whom..." appears in Col. 2, lines 3-16, not step 240.

Claim 11, support for "...declaring a winning carrier...lowest bid...delivering..." appears in Col. 2, lines 55-61 and Col. 12, lines 51-58.

Claim 12, support for "...initiating delivery ...via third party freight dispatcher..." appears in Col. 10, lines 37-54.

Double Patenting rejections are maintained.

Rejections under 35 USC 112 are maintained. Claims 79 and 80 refer to auctions, described in relation to Fig. 22. Parent Claims 1 and 27 refer to sales and is described in relation to Fig. 21. There is no description of the species of purchasing items for sale, i.e., fixed price (Figs. 12A-D, Figs. 14A-F, including e-mail notifications, page 41, lines 2-6) and auction format (Figs. 13A-D and Figs. 15A-D) in one embodiment as in claims 79 and 80:

	Claimed limitation	##	contents
79	The system of Claim 27, further comprising a computer usable storage medium having computer readable program code embodied in the medium, and		
	wherein the means for displaying information (ref_##) about regulated goods offered for sale via the Web site comprises computer readable program code that displays information about regulated goods offered for sale via the Web site,	220	Post received information to potential buyers via a web site including cost information for shipping regulated goods
	wherein the means for receiving an offer (ref_##) at the Web site from a buyer, via a respective Web client, to purchase the	230	Receive bid to purchase a quantity

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	Claimed limitation	##	contents
	regulated goods comprises computer readable program code that receives an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods,		of regulated goods from buyer
	wherein the means for verifying that the buyer is authorized (ref_##) to purchase the regulated goods by verifying that the buyer has a valid license issued by a regulatory agency for the regulated goods comprises computer readable program code that verifies that the buyer is authorized to purchase the regulated goods by verifying that the buyer has a valid license issued by a regulatory agency for the regulated goods, and	240	Verify that buyer is [singular] authorized to purchase regulated goods
	wherein the means for sending an acceptance of the offer (ref_##) to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises computer readable program code that sends an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods.	1142	e-mail notifications to a seller and buyer, respectively, confirming a sale, page 41, lines 3-6.
80	The method of Claim 1, wherein receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises:		
	conducting an auction (ref_##) over the computer network to solicit bid offers to purchase the regulated goods;	320	Conduct auction for regulated goods via web site wherein bids are received from participants via web site
	receiving at least one bid offer (ref_##) to purchase the regulated goods; and	330	Verify that each bidder is authorized to purchase regulated goods
	declaring a buyer that submits a highest bid offer for the regulated goods a winner (ref_##)	350	Award sale of regulated goods to bidder(s) making highest bid(s)
	wherein sending an acceptance of the offer to the buyer (ref_##) in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods.	1142	e-mail notifications to a seller and buyer, respectively, confirming a sale, page 41, lines 3-6.

On page 11, applicant argues,

Applicants wish to note that they could antedate the PlanetRx and Soma references, because these references are not more than one year before the filing date of the parent application, i.e., more than one year prior to 16 November 1999. However, Applicants will not do so, because the Examiner has treated these references as merely being representative of Internet pharmacies.

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In response, the Examiner has not treated the references as merely being representative of Internet pharmacies. The rejections are based on 35 USC 102.

Applicant argues,

...Rather, Applicants respectfully submit that the claims are patentable over Internet pharmacies, at least because Internet pharmacies do not describe or suggest:

verifying that the buyer is authorized to purchase the regulated goods by verifying that the buyer has a valid license issued by a regulatory agency for the regulated goods...,

as recited in Claim 1 or analogous recitations of Claims 27 and 53. Note that this recitation states that verification is made that the buyer has a valid license issued by a regulatory agency for the regulated goods. As noted in the Official Action, for example at Page 6, an online pharmacy may verify that the buyer has a prescription from a doctor.

...However, there is no verification that the buyer himself has been issued a valid license by a regulatory agency to the buyer for the regulated goods. In particular, a physician is not a regulatory agency. Moreover, there is no description or suggestion that the prescribing physician's authority to issue the prescription is checked by an Internet pharmacy.

...Finally, even if the license of the physician was checked, there is no description or suggestion that an Internet pharmacy would verify that the has a valid license issued to the buyer by a regulatory agency for the regulated goods, as recited in Claim 1.

In response, "...verifying that the buyer is authorized to purchase the regulated goods..." is disclosed by PlanetRX, paragraph 16, which discloses that buyers information such as billing and prescription information and that to fill a prescription, a physician will first call or fax the prescription to the system.

The language "...by verifying that the buyer has a valid license issued by a regulatory agency for the regulated goods..." refers to actions that are implied and not positively recited. The actions take place outside the metes and bounds of the claims. The language is interpreted as non-functional descriptive material and carries little to no patentable weight. The limitation is given its broadest

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reasonable interpretation to include verifying a buyer's information such as billing and prescription by a physician.

The term “regulated goods” is given its broadest reasonable interpretation to include authorized resellers of goods such as liquor, firearms and prescription medicines.

Official Notice and Traverse

Claims 4, 5, 30, 31, 56 and 57, as interpreted, were rejected under 35 U.S.C. 103(a) as being unpatentable over PlanetRx and Soma in view of Official Notice.

A “traverse” is a denial of an opposing party’s allegations of fact.¹ The Examiner respectfully submits that applicants’ arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants’ arguments and comments as constituting a traverse, applicants’ arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner’s notice of what is

¹ Definition of Traverse, Black’s Law Dictionary, “In common law pleading, a traverse signifies a denial.”

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well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03

Reliance on Common Knowledge in the Art or "Well Known" Prior Art:

It was well known at the time of applicant's invention to transfer funds from a financial account of the buyer to a financial account of the seller, such as by paying with a credit card and that the transfer payment includes a number of intermediaries, including third party financial institutions.

Priority

Applicant claims to priority as a continuation-in-part of 09/440778, filed 16 November 1999, issued on 22 July 2003 as 6,598,027.

However, on 23 June 2003, applicant added new matter in several embodiments, including Figs. 20-22 and related description, including paragraphs 0152-0169, pages 13-14 of PUB 20040073498 A1. Priority date for the new matter is 23 June 2003.

Applicant elected to prosecute the embodiment found in Figs. 20 and 21, paragraphs 0152-0165. The limitations added 11/30/2006 in claims 79-80 are directed to matter introduced 06/23/2003 in paragraphs 066-0169, Fig. 22.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

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and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12, 27-38, 53-64 and 79-80 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-98 of U.S. Patent No. 6,598,027. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of

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ordinary skill in the art at the time the invention was made to include a step of sending an acceptance of the offer to a buyer in response to verifying that the buyer is authorized to purchase the regulated goods (as in claim 1, step d, for example).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 79 and 80 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 79 and 80 refer to auctions, described in relation to Fig. 22. Parent Claims 1 and 27 refer to sales and is described in relation to Fig. 21. There is no description of sale by auction and sale without auction in one embodiment as claimed in claims 79 and 80.

For purposes of Examination, the claims are given their broadest reasonable interpretation as being directed to a sale.

Claim Rejections - 35 USC § 102 and 103

The claims are rejected as follows:

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claims	35USC	references
1-3, 6, 7, 9, 10, 12, 27-29, 32, 33, 35, 36, 38, 53-55, 58, 59, 61, 62 and 64	102(a)	PlanetRx and Soma
4, 5, 30, 31, 56 and 57	103(a)	PlanetRx and Soma in view of Official Notice
8, 34 and 60	103(a)	PlanetRx and Soma and further in view Edmonson
11, 37, 63, 79 and 80	103(a)	PlanetRx and Soma and further in view of Breen

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 6, 7, 9, 10, 12, 27-29, 32, 33, 35, 36, 38, 53-55, 58, 59, 61, 62 and 64, as interpreted, are rejected under 35 U.S.C. 102(a) as being anticipated by internet pharmacies, as evidenced by [a] **PlanetRx**: next big cyber success story? // E-TRADE: A upstart wants to replace your corner drugstore, superstore.; [MORNING Edition] *DAWN C. CHMIELEWSKI*, Orange County Register, Santa Ana, Calif.: Mar 18, 1999. 3 pages, downloaded from the Internet on 11 September 2006 and [b] **Soma.com** Calls for Crackdown on Unethical Internet Pharmacies, *Business Editors, Internet/On-Line Writers. Business Wire*. New York: Mar 30, 1999. 3 pages. Both documents were downloaded from ProQuest on the Internet on 11 September 2006.

As per claim 1, PlanetRx and Soma disclose method(s) of selling regulated goods (pharmaceutical drugs and medications) over a computer network, wherein the computer network comprises a Web site of a seller and a plurality of Web clients in communication with the Web site, and wherein buyers communicate with the Web site

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via respective Web clients (see, for example, PlanetRx, references online pharmacy, as in paragraph 1), the method comprising:

- a. displaying information about regulated goods offered for sale via the Web site (see, for example PlanetRx paragraph 1 for list of products displayed on web site);
- b. receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods (see, for example, at least PlanetRx, paragraph 13, concerning offers to purchase prescription drugs);
- c. verifying that the buyer is authorized to purchase the regulated goods by verifying that the buyer has a valid license issued by a regulatory agency for the regulated goods (see, for example, Soma, paragraph 10 and PlanetRx, paragraph 16, concerning prescriptions, faxing prescriptions by a doctor); and
- d. sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods (see, for example, PlanetRx paragraph 13 concerning deliver, which takes place after shipment).

As per claim 2, PlanetRx and Soma disclose verifying that the regulated goods offered for sale are legal for use within the buyer's location in response to verifying that the buyer is authorized to purchase the regulated goods (see, for example, Soma paragraph 10, references to shipping prescriptions to states where licensed).

As per claim 3, PlanetRx and Soma disclose initiating delivery of the regulated goods to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods (see, for example, PlanetRx paragraphs 13 and 24 concerning delivery of prescription medications).

As per claim 6, PlanetRx and Soma disclose that information listed about the regulated goods offered for sale comprises a designation of a time period within which offers to purchase the regulated goods at the sales price will be accepted. Prescriptions have expiration dates, which are the end point of the time period within which offers to purchase the regulated goods at a sale price will be accepted.

As per claim 7, PlanetRx and Soma disclose displaying information about the regulated goods offered for sale comprises displaying cost information for shipping the regulated goods to a buyer location (see, for example, PlanetRx references to paying \$10 for next-day delivery).

As per claim 9, PlanetRx and Soma disclose storing information about a sale of regulated goods to the buyer. See, for example, PlanetRx paragraph 16.

As per claim 10, PlanetRx and Soma disclose imposing restrictions as to where and from whom offers to purchase the regulated goods will be accepted. See, for example, Soma.com, paragraphs 1 and 5, concerning licensed pharmacies and licensed health care providers.

As per claim 12, PlanetRx and Soma disclose that initiating delivery of the regulated goods comprises initiating delivery of the regulated goods via a third party freight dispatcher in communication with the Web site. See references to next-day delivery, as in paragraph 13.

Claim 27 is rejected on the same grounds as claim 1.

Claim 28 is rejected on the same grounds as claim 2.

Claim 29 is rejected on the same grounds as claim 3.

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Claim 32 is rejected on the same grounds as claim 6.

Claim 33 is rejected on the same grounds as claim 7.

Claim 35 is rejected on the same grounds as claim 9.

Claim 36 is rejected on the same grounds as claim 10.

Claim 38 is rejected on the same grounds as claim 12.

Claim 53 is rejected on the same grounds as claim 1.

Claim 54 is rejected on the same grounds as claim 2.

Claim 55 is rejected on the same grounds as claim 3.

Claim 58 is rejected on the same grounds as claim 6.

Claim 59 is rejected on the same grounds as claim 7.

Claim 61 is rejected on the same grounds as claim 9.

Claim 62 is rejected on the same grounds as claim 10.

Claim 64 is rejected on the same grounds as claim 12.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4, 5, 30, 31, 56 and 57, as interpreted, are rejected under 35 U.S.C. 103(a) as being unpatentable over PlanetRx and Soma in view of admitted prior art.

As admitted prior art, it was well known at the time of applicant's invention to transfer funds from a financial account of the buyer to a financial account of the seller,

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such as by paying with a credit card and that the transfer payment includes a number of intermediaries, including third party financial institutions.

PlanetRx and Soma **do not** specifically disclose initiating a transfer of funds from a financial account of the buyer to a financial account of the seller (claim 4) and that the step of initiating a transfer of funds comprises notifying a third party financial institution via the computer network to transfer funds from a financial account of the buyer to a financial account of the seller (claim 5).

As per claim 4, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and common knowledge to disclose initiating a transfer of funds from a financial account of the buyer to a financial account of the seller. One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma and common knowledge to disclose initiating a transfer of funds from a financial account of the buyer to a financial account of the seller for the obvious reason that such payments facilitate internet commerce and because the incorporation of such features is no more than the predictable use of prior art elements according to their established function.

As per claim 5, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and common knowledge to disclose that the step of initiating a transfer of funds comprises notifying a third party financial institution via the computer network to transfer funds from a financial account of the buyer to a financial account of the seller. One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma

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and common knowledge to disclose that the step of initiating a transfer of funds comprises notifying a third party financial institution via the computer network to transfer funds from a financial account of the buyer to a financial account of the seller for the obvious reason that such payments facilitate internet commerce and because the incorporation of such features is no more than the predictable use of prior art elements according to their established function.

Claim 30 is rejected on the same grounds as claim 4.

Claim 31 is rejected on the same grounds as claim 5.

Claim 56 is rejected on the same grounds as claim 4.

Claim 57 is rejected on the same grounds as claim 5.

Claims 8, 34 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over PlanetRx and Soma and further in view **Edmonson** et al. (2004/0093340), filed 8 November 2002 and published on 13 May 2004.

As per claim 8, PlanetRx and Soma ***do not*** specifically disclose that the regulated goods are selected from the group consisting of agricultural chemicals, seeds, and animal health products. This feature is disclosed by Edmonson, as in paragraph 0015, for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and Edmonson to disclose that the regulated goods are selected from the group consisting of agricultural chemicals, seeds, and animal health products.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma and Edmonson to disclose that the regulated goods are selected from the group consisting of agricultural chemicals, seeds, and animal health products for the obvious reason that having the information in a central place permits easier checking of various licenses and legal uses according to regulations for the goods.

Claim 34 is rejected on the same grounds as claim 8.

Claim 60 is rejected on the same grounds as claim 8.

Claims 11, 37, 63, 79 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over PlanetRx and Soma and further in view of Breen (6,598,027).

As per claim 11, PlanetRx and Soma disclose initiating delivery of the regulated goods to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods (see rejection of claim 3, above).

PlanetRx and Soma ***do not*** specifically disclose that initiating delivery of the regulated goods comprises: conducting a reverse auction over the computer network, wherein carriers, via respective Web clients, can submit bids for delivering the regulated goods to the buyer; and declaring a winning carrier, wherein the winning carrier submitted a lowest bid for delivering the regulated goods to the buyer. These features are disclosed by Breen, as in col. 2, lines 44-54 for example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and Breen to disclose that initiating

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delivery of the regulated goods comprises: conducting a reverse auction over the computer network, wherein carriers, via respective Web clients, can submit bids for delivering the regulated goods to the buyer; and declaring a winning carrier, wherein the winning carrier submitted a lowest bid for delivering the regulated goods to the buyer.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRX, Soma and Breen to disclose that initiating delivery of the regulated goods comprises: conducting a reverse auction over the computer network, wherein carriers, via respective Web clients, can submit bids for delivering the regulated goods to the buyer; and declaring a winning carrier, wherein the winning carrier submitted a lowest bid for delivering the regulated goods to the buyer for the obvious reason that some buyers may wish to buy goods in bulk, or may wish to combine multiple purchases, which may lower their overall costs. A seller can provide lower costs than competitors by further providing the lowest shipping costs.

As per claim 80, PlanetRx and Soma ***do not*** specifically disclose that receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the

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highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods.

Breen discloses auctions (a type of sale) to buyers, and that receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine PlanetRx, Soma and Breen to disclose receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the

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highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine PlanetRx, Soma and Breen to disclose receiving an offer at the Web site from a buyer, via a respective Web client, to purchase the regulated goods comprises: conducting an auction over the computer network to solicit bid offers to purchase the regulated goods; receiving at least one bid offer to purchase the regulated goods; and declaring a buyer that submits a highest bid offer for the regulated goods a winner, and wherein sending an acceptance of the offer to the buyer in response to verifying that the buyer is authorized to purchase the regulated goods comprises sending an acceptance of the bid offer to the buyer that submitted the highest bid in response to verifying that the buyer that submitted the highest bid is authorized to purchase the regulated goods for the obvious reason that a seller may wish to get rid of large amounts of inventory may allow buyers to obtain lower prices for goods.

Claim 37 is rejected on the same grounds as claim 11.

Claim 63 is rejected on the same grounds as claim 11.

Claim 79 is rejected on the same grounds as claim 80.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Zurita/
Primary Examiner
Art Unit 3625
29 September 2008